

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

REIKO R. SMITH,

Plaintiff,

v.

SGT. KOBOSHIGOWA, ET AL.,

Defendants.

Case No. C14-1929 MJP-BAT

**REPORT AND  
RECOMMENDATION**

Plaintiff Reiko R. Smith, proceeding pro se and *in forma pauperis*, filed this 42 U.S.C. § 1983 civil rights action alleging that Defendants subjected him to excessive force. Dkt. 1. On January 7, 2015, Plaintiff filed a notice of change of address. Dkt. 10. On February 20, 2015, Defendants filed a motion to dismiss. Dkt. 14. The Court denied the motion to dismiss and granted Plaintiff leave to amend. Dkt. 16. On June 5, 2015, the Court directed Defendants to file an answer. Dkt. 18. On June 19, 2015, defendants filed an answer to the complaint (Dkt. 19) and the Court entered a Scheduling Order. Dkt. 20.

On July 15, 2015, three of the Court's Orders (Dkts. 16, 18, and 20) sent to the Plaintiff at the address provided by him, were returned to the Court marked "Return to Sender Attempted – Not Known – Unable to Forward." *See* Dkts. 21, 22, and 23. On July 20, 2015, the Court's Order Dismissing Defendant Pine and Plaintiff's Eighth Amendment Claims (Dkt. 17) sent to the

1 Plaintiff at his last known address was similarly returned to the Court as undeliverable. Dkt. 24.

2 Local Civil Rule ("LCR") 10(f) requires represented and unrepresented parties to notify  
3 the Court of any change of address or telephone number within 10 days of the change. LCR  
4 41(b)(2) further provides:

5 A party proceeding pro se shall keep the court and opposing parties advised as to  
6 his current address. If mail directed to a pro se plaintiff by the clerk is returned by  
7 the Post Office, and if such plaintiff fails to notify the court and opposing parties  
within 60 days thereafter of his current address, the court may dismiss the action  
without prejudice for failure to prosecute.

8 To date, Plaintiff has not notified the Court of his current address, and has not filed  
9 anything to further prosecute this action. Accordingly, the Court recommends **DISMISSING**  
10 this action without prejudice pursuant to Local Rule CR 41(b)(2) for failure to prosecute. A  
11 proposed order accompanies this Report and Recommendation.

12 Any objections to this Recommendation must be filed no later than **Tuesday, October**  
13 **13, 2015**. The matter will be ready for the Court's consideration on **Thursday, October 15,**  
14 **2015**. Objections shall not exceed five (5) pages. The failure to timely object may affect the  
15 right to appeal.

16 DATED this 22nd day of September, 2015.

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18 BRIAN A. TSUCHIDA  
19 United States Magistrate Judge  
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